

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BRENT SCOTT BAILEY,)	4:16CV3170
)	
Plaintiff,)	
)	MEMORANDUM
v.)	AND ORDER
)	
COMMISSIONER OF SOCIAL)	
SECURITY,)	
)	
Defendant.)	
)	

This matter is before the court for case management purposes. Plaintiff filed a Complaint (Filing No. [1](#)) on October 31, 2017. However, Plaintiff failed to include the \$400.00 filing and administrative fees. Plaintiff has the choice of either submitting the \$400.00 filing and administrative fees to the clerk's office or submitting a request to proceed in forma pauperis ("IFP").¹ Failure to take either action within 30 days will result in the court dismissing this case without further notice to Plaintiff.

Plaintiff is a prisoner at USP-Marion. The Prison Litigation Reform Act "makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal." [*In re Tyler*, 110 F.3d 528, 529-30 \(8th Cir. 1997\)](#); [*Jackson v. N.P. Dodge Realty Co.*, 173 F. Supp. 2d 951 \(D. Neb. 2001\)](#). See [28 U.S.C. § 1915\(b\)\(1\)](#).

If Plaintiff requests to proceed IFP, he must submit a certified copy of his trust fund account statement for the 6-month period immediately preceding the filing of the Complaint, obtained from the appropriate official of each prison at he was confined.

¹If Plaintiff is granted leave to proceed in forma pauperis ("IFP") in this matter, he will be allowed to pay the court's \$350 filing fee in installments. See [28 U.S.C. § 1915\(b\)\(1\)](#); [*In re Tyler*, 110 F.3d 528, 529-30 \(8th Cir. 1997\)](#). He would not be subject to the \$50.00 administrative fee assessed to non-IFP plaintiffs.

28 U.S.C. § 1915(a)(2). Plaintiff must pay an initial partial filing fee in the amount of 20 percent of the greater of Plaintiff's average monthly account balance or average monthly deposits for the six months preceding the filing of the Complaint. 28 U.S.C. § 1915(b)(1). In addition to the initial partial filing fee, Plaintiff must "make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account," which will be forwarded to the court by Plaintiff's institution. 28 U.S.C. § 1915(b)(2). Plaintiff will remain responsible for the entire filing fee, as long as he is a prisoner, even if the case is dismissed at some later time.

IT IS THEREFORE ORDERED that:

1. Plaintiff is directed to submit the \$400.00 fees to the clerk's office or submit a request to proceed in forma pauperis within 30 days. Failure to take either action will result in dismissal of this matter without further notice.
2. The Clerk of Court is directed to send to Plaintiff the Form AO240 ("Application to Proceed Without Prepayment of Fees and Affidavit").
3. The Clerk of Court is directed to set a pro se case management deadline in this matter with the following text: March 2, 2017: Check for MIFP or payment.

DATED this 31st day of January, 2017.

BY THE COURT:

s/ *Richard G. Kopf*
Senior United States District Judge